



W.P.(MD) Nos.9466, 11424, 9469, 9470 and
9471 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P.(MD) Nos.9466, 11424, 9469, 9470 and 9471 of 2021
and
W.M.P.(MD)Nos.7191, 7193, 8927, 8929, 7195, 7196
and 7197 of 2021**

W.P.(MD)No.9466 of 2021

Babu

: Petitioner

-vs-

- 1.The District Collector,
Collectorate, Thoothukudi District.
- 2.The Revenue Divisional Officer,
Office of the Revenue Divisional Office,
Kovilpatti Division,
Thoothukudi District.
- 3.The Thasildar,
Kayathar Taluk Office,
Thoothukudi District.
- 4.The President,
Kalappaipatti Panchayat,
Kayathar Taluk,
Thoothukudi District.



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5.M.Velsamy

: Respondents

[R5 is impleaded vide order dated 29.11.2022 in W.M.P.(MD)No.29736 of 2022 in W.P.(MD)No.9466 of 2021]

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the third respondent under his proceedings bearing No.Na.Ka.No.Aa1/479/20 [ந.க.எண்.ஆ1/479/20] dated 21.04.2021, declared as illegal, ultra virus, without jurisdiction, unsustainable, through which he has ordered the petitioner to vacate from the land measuring 12 cents comprised in Natham S.No.453/17 in Kalappaipatti Village, Kayathar Taluk, Thoothukudi District and consequently, forbearing the respondents from evicting the petitioner from the said property.

For Petitioner : Mr.M.Ponniah

For R1 to R4 : Mr.M.Linga Durai
Special Government Pleader

For R5 : Mr.I.Pinaygash

COMMON ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

All these writ petitions are filed to challenge the order passed by the Tahsildar, Kayathar Taluk Office, Thoothukudi District/third respondent, dated 21.04.2021.



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2. The petitioners are residing in a residential colony in different survey numbers in the same village namely, Kalappaipatti Village, Kayathar Taluk, Thoothukudi District, which is classified as Natham. It is not in dispute that the property, the residential area, in which, the petitioners are in occupation, is classified as Natham land. It is also the case of the petitioners that they are in possession of the lands by constructing dwelling houses and they are residing in the residential building constructed by them. By the impugned order, the Tahsildar after conducting enquiry, came to the conclusion that all the parts of lands which are in the enjoyment of the petitioners, have no title documents prior to 1966. Since the occupants were unable to produce any document of title, it was contended that the enjoyment of the petitioners should be treated as encroachment and that the petitioners should be vacated from the premises.

3. The learned counsels appearing for the petitioners have produced before this Court several decisions wherein it is held that the property classified as Natham does not belong to the Government as the same is meant for the residents of villagers. It is further stated that the Government has no right to claim ownership over the land as the property classified as Natham never vests with Government either



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under the provisions of Act 26 of 1948 [The Tamil Nadu Estates (Abolition and Conversion into Ryotwari)], Act 26 of 1963 [Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari)] and Act 30 of 1963 [Tamil Nadu Minor Inam Estates (Abolition and Conversion into Ryotwari)]. It is also to be noted that this Court has consistently taken the view that the person who is in possession of the property classified as Natham is entitled to claim ownership over the land in his possession. Unless there is a dispute *inter se* among the persons who are in possession and enjoyment, the Government has no role to play. Though the Government issued executive orders to regulate the people whereas in possession by way of Natham Settlement, that does not enable the Government to claim ownership over the land and or to grant patta as if the lands are already disposed.

4. The learned Special Government Pleader has produced before this Court, the circular dated 07.08.2015 issued by the Additional Chief Secretary/Commissioner of Land Administration to the effect that the lands are set apart for habitation in the villages are classified as 'Government Poromboke' and that the persons who are recognized as owner under the Natham Settlement, cannot claim any right over the same. In the said circular, it is reiterated that the lands classified



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as Natham are clearly Government lands, of course, subject to the Government's pleasure to grant house sites patta to the persons in enjoyment of the said lands.

5. The view expressed by the then Commissioner of Land Administration is contrary to the principle settled by this Court and stated by this Court in several cases. Therefore, the circular dated 07.08.2015, is declared as unconstitutional and that therefore either for the present case or for cases which are to be decided in future, the said circular cannot be relied upon by the respondents to deny the right of ownership over the persons in enjoyment of the land classified as Natham.

6. With the above observations and directions, these Writ Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.] [D.B.C., J.]

07.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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S.S.SUNDAR, J.
and
D.BHARATHA CHAKRAVARTHY, J.

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